

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID G. PFLUM, et al.,

Defendants.

NO: 12-CV-0541-TOR

ORDER GRANTING PLAINTIFF'S
MOTION TO CONFIRM SALE AND
DISBURSE SALES PROCEEDS

BEFORE THE COURT are Plaintiff's Motion to Confirm Sale and Disburse Sales Proceeds (ECF No. 39) and Defendant David Pflum's Motion to Dismiss Case with Prejudice for Lack of Authority and Jurisdiction (ECF No. 40). These matters were submitted without oral argument. The Court has reviewed the record and files herein, and is fully informed.

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ORDER GRANTING PLAINTIFF'S MOTION TO CONFIRM SALE AND
DISBURSE SALES PROCEEDS ~ 1

1 BACKGROUND

2 Plaintiff filed its Complaint to Foreclose Federal Tax Liens on September
3 20, 2012. ECF No. 1. Defendants were served on November 1, 2012. ECF Nos.
4 5–9. On November 28, 2012, Defendant David Pflum mailed a letter to Plaintiff’s
5 counsel at the Tax Division of the Department of Justice in Washington, D.C.
6 Enclosed with this letter were various documents purportedly submitted “in
7 response to the various SUMMONS IN A CIVIL ACTION presented to [David
8 Pflum] and Patricia Pflum.” ECF No. 4 at 1. Many of these documents are
9 captioned, “Notice and Demand to Validate Debt Claim.” *E.g., id.* at 2, 9, 18.
10 Defendant also mailed a copy of the letter and enclosures to the Court, which were
11 received and filed as an *ex parte* submission on December 3, 2012. *Id.*

12 On January 24, 2013, the Court ordered Mr. Pflum to show cause by
13 February 11, 2013, why default should not be entered against him for failing to
14 answer Plaintiff’s Complaint. ECF No. 14. David Pflum subsequently filed a
15 perfunctory one-page document styled as a Motion to Dismiss on February 7,
16 2013. ECF No. 15. In this motion, Defendant stated, “An abundance of proof has
17 been submitted to this court, that through the Acquiescence of IRS Agents Larry
18 Inman and Denise Davis, no Tax liability exists.” ECF No. 15. Defendant also
19 mailed additional documents to Plaintiff’s counsel, which Plaintiff’s counsel
20 forwarded to the Court. ECF No. 16. In a cover letter dated January 3, 2013,

1 Defendant states, “All properties controlled by me are sitting on land that is held
2 by LAND PATENTS signed by the Presidents of the United States of America (not
3 the corporate US) and said properties can not [sic] be collaterally attacked by IRS
4 liens or seizures.” ECF No. 16-1 at 2.

5 The Court subsequently ordered that default be entered against Mr. Pflum.
6 ECF No. 17. The Clerk of Court entered default against Defendants Flintstone’s
7 Slate LLC, Patricia A. Pflum, and David G. Pflum on April 9, 2013. ECF Nos. 22,
8 23. Plaintiff then moved for entry of default judgment. ECF No. 18. On April 29,
9 2013, Mr. Pflum mailed a letter bearing the caption “Notice of Crimes Being
10 Committed in these Cases,” to defense counsel. A copy of this letter was received
11 by the Court and filed on May 1, 2013. ECF No. 24.

12 The Court granted Plaintiff’s Motion for Default Judgment on June 14,
13 2013. ECF No. 26. The Court found therein that the United States has valid
14 federal tax liens arising from the federal tax liabilities of David Pflum, which liens
15 attached to the subject property. *Id.* at 9. The Court ordered the subject property
16 sold and the proceeds arising from the sale distributed as set forth in the Court’s
17 Order of Sale. *Id.* In the Order of Sale, the Court ordered that Mr. Pflum not
18 record any instrument “that may directly or indirectly tend to adversely affect the
19 value of the subject property or that may tend to deter or discourage potential
20

1 bidders from participating in the public sale, nor shall he cause or permit anyone
2 else to do so.” ECF No. 27 at ¶6.

3 On January 23, 2015, Plaintiff filed a motion to void deeds executed by
4 David and Patricia Pflum in violation of the Court’s Order of Sale. ECF No. 36.
5 Defendants did not respond to this motion. The Court issued an order voiding the
6 deeds on February 24, 2015. ECF No. 38.

7 The subject property was sold at public auction on March 3, 2015. Plaintiff
8 now seeks to confirm the sale and have the proceeds disbursed. ECF No. 39.

9 DISCUSSION

10 As an initial matter, the Court addresses David Pflum’s motion to dismiss in
11 which Mr. Pflum contends that the Court lacks authority to preside over this
12 matter. ECF No. 40. First, an order of default has been entered against Mr. Pflum.
13 ECF No. 23. The Court provided Mr. Pflum with ample opportunity to comply
14 with the Federal Rules of Civil Procedure by filing an answer or proper motion to
15 dismiss in a timely manner. *See* ECF No. 14. Mr. Pflum failed to do so, and, as
16 such, Mr. Pflum forfeited any right to file a belated motion to dismiss or to
17 otherwise participate in this case. *See Frow v. De La Vega*, 82 U.S. 552, 554
18 (1872).

19 Second, the motion is meritless. Mr. Pflum has presented no legal or factual
20 support for his contentions that the oath of office this Court swore was

1 administered by an individual who was not authorized by the laws of the United
2 States to administer oaths as required by 5 U.S.C. § 2903, that the Court's
3 appointment was counterfeit or otherwise defective, or that the Court suffers from
4 a conflict of interests.¹ The Court denies the motion.

5 The Court turns its attention to Plaintiff's motion. The sale of the subject
6 property proceeded in compliance with the Court's June 14, 2013, Order of Sale,
7 as evidenced by the report of Mary Smith, the IRS Property Appraisal and
8 Liquidation Specialist who managed the sale. *See* ECF No. 42. Notice of sale was
9 published once a week for four consecutive weeks in the Newport News Miner, a
10 legal newspaper of general circulation in Pend Oreille County. ECF Nos. 27 at ¶
11 5(d); 42 at ¶ 3; 42-1; 42-2. A public auction was held on March 3, 2015, in which
12 the subject property was sold to the highest bidder for \$71,000. ECF Nos. 27 at ¶
13 5(a); 42 at ¶ 4. This amount has been deposited into the Registry of the Court.
14 ECF Nos. 27 at ¶ 5(f), (g); 41; 42 at ¶ 4. The sale was completed in accordance
15 with the Order of Sale and the Court therefore confirms the sale of the property.

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17 ¹ The portion of the Federal regulations Mr. Pflum cites regarding OMB control
18 numbers is applicable only to departments and agencies of the executive branch as
19 well as independent agencies; it does not apply to the federal judiciary. *See* 5
20 C.F.R. § 1320.3(a).

1 **ACCORDINGLY, IT IS HEREBY ORDERED:**

2 1. The United States' Motion to Confirm Sale and Disburse Sales Proceeds
3 (ECF No. 39) is **GRANTED**.

4 2. Defendant David Pflum's Motion to Dismiss Case with Prejudice for
5 Lack of Authority and Jurisdiction (ECF No. 40) is **DENIED**.

6 3. The interests of, liens against, or claims to the subject property held or
7 asserted by the United States and any other parties to this action or any
8 successors in interest or transferees of those parties are discharged and
9 extinguished.

10 4. Mary Smith, or other authorized representative of the Internal Revenue
11 Service, shall execute and deliver, or have executed and delivered, a deed
12 of judicial sale conveying the subject property to the purchaser, James H.
13 Wilson.

14 5. The Auditor and/or Treasurer of Pend Oreille County shall cause transfer
15 of the subject property to be reflected upon the County's register or
16 record of title.

17 6. The sale proceeds in the Registry of the Court shall be distributed as
18 follows:

19 a. First, to the registry fee of the Court.
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b. Second, the costs of the sale, in the amount of \$2,481.07, shall be paid to the Internal Revenue Service, Attn: Mary Smith, 500 W. 12th St., Room 110, Vancouver, WA 98600.

c. Third, the amount of outstanding property taxes encumbering the subject property, in the amount of \$809.08, shall be paid to the Pend Oreille County Tax Assessor's Office, Attn: James W. McCroskey, 625 W. 4th St., P.O. Box 5010, Newport, WA 99156 (to include "APN: 453236 43 0001" on the check).

d. Fourth, the remaining balance plus accrued interest shall be paid to the U.S. Department of Justice, Tax Division, Attn: Post-Litigation Unit, P.O. Box 310, Washington, D.C. 20044.

The District Court Executive is hereby directed to enter this Order, provide a copy to Plaintiff's counsel, and mail a copy to Defendant David Pflum at the address listed in ECF No. 40. The file shall remain **CLOSED**.

DATED May 14, 2015.



Thomas O. Rice
THOMAS O. RICE
United States District Judge